

**CITY OF NEWARK
DELAWARE
COUNCIL MEETING MINUTES**

APRIL 24, 2023

Those present at 7:00 p.m.:

Presiding:	Mayor Stu Markham District 1, John Suchanec District 2, Corinth Ford District 3, Jay Bancroft District 4, Dwendolyn Creecy District 5, Jason Lawhorn
Absent:	District 6, Travis McDermott
Staff Members:	City Manager Tom Coleman City Secretary Tara Schiano City Solicitor Paul Bilodeau Planning & Development Deputy Director Jessica Ramos-Velazquez Deputy City Secretary Nichol Scheld Chief Procurement and Projects Manager Jeff Martindale Finance Director David Del Grande Chief of Police Mark Farrall Deputy Chief of Police Kevin Feeney Senior Planner Michael Fortner Public Works and Water Resources Director Tim Filasky Public Works and Water Resources Deputy Director Ethan Robinson Chief Human Resources Officer Devan Hardin Chief of Community Engagement Officer Jayme Gravell

1. Mr. Markham called the meeting to order at 7:01 p.m.

2. **SILENT MEDITATION & PLEDGE OF ALLEGIANCE**

Mr. Markham asked for a moment of silence and the Pledge of Allegiance.

Mr. Markham explained the procedures for the hybrid Microsoft Teams Meeting Platform. He stated that at the beginning of each item, he would call on the related staff member to present and, once the presentation was complete, he would call on each Councilmember to offer their comments. If a Councilmember had additional comments to add later, they should signal the Chair to be recognized again after all members had the opportunity to speak. If members of the public wanted to offer comment and were attending in person, they should sign the sign-in sheet near the entrance to the Council Chamber to be called on to speak at the appropriate time. Members of the public attending virtually should use the hand-raising function in Microsoft Teams to signal the meeting organizer that they would like to speak or message the meeting organizer through the chat function with name, address or district, and the agenda item on which they would like to comment. He stated that all lines would be muted until individuals were called to speak, at that point, the speakers' microphone would be enabled, and they would need to unmute themselves in order to comment. He emphasized that public comments were limited to five minutes per person and all speakers were required to identify themselves prior to speaking. Comments in Microsoft Teams chat would not be considered part of the public record for the meeting unless they were read into the record as part of the public comment. He asked that all attendees keep cameras off until called on to speak.

3. 1. **PUBLIC PRESENTATION: (15-minute limit):** None

4. 2. **ITEMS NOT ON PUBLISHED AGENDA**

A. Elected Officials who represent City of Newark residents or utility customers (2 minutes): None

Mr. Markham announced that there was an addition to the agenda.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: TO MOVE ITEM 8-A TO 8-B AND ADD ITEM 8-A, "CERTIFICATE OF EMERGENCY FOR THE PURCHASE OF 5 VEHICLES."

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn
Nay – 0.

5. 2-B. UNIVERSITY

(1) Administration (5 minutes per speaker) (10 minutes):

005:25

Caitlin Olsen, UD Administration, first congratulated UDance, UD's largest student-run philanthropic organization, for holding their 17th annual 12-hour dance marathon on Sunday to raise money to fight against childhood cancer. A year-long fundraising effort, this year over \$1.7M was raised for the B+ Foundation. She mentioned that they were close to \$18M raised to date and more than 6,000 students were affiliated with the program.

She continued to announce that April 29, 10 a.m. – 3 p.m., was Ag Day, the signature event of the College of Agriculture and Natural Resources, located at Townsend Hall on S. College Ave. There would be free admission, free parking, and it would be open to the public. Rain date would be April 30th.

Ms. Olsen shared two academic items that were worth mentioning. First, there was a big push from the Provost office and the colleges to help students sign up for winter and summer sessions. She explained that UD held two summer sessions, broken up throughout the summer months, and they could be experiential learning, study abroad, or in-person or online classes. This was an effort to help students finish in four years. Ms. Olsen expressed that UD knew the cost of education could be limiting and wanted to make sure students were taking advantage of the shorter semester to help fulfill their requirements for graduation. It also helped them to connect with the community and the workforce during those semesters. She shared that as they observed more students signing up for winter and summer, they would see businesses and community organizations more populated at those times, but it also would keep them around for continued support of the aforementioned.

Ms. Olsen reported the faculty senate had voted to make the SATs optional for admissions through 2025. This was initiated to help increase access to the university and needed to be discussed more in encouraging high school students to work towards an undergraduate degree; they wished to help them know that the SAT scores would not limit them. She urged Council to keep that in mind through talking with members of the community as UD cared for their students (especially in Newark), and was encouraging them to remain local by applying, attending, and then continuing to work in the community. She reiterated that optional SATs helped students feel more empowered to apply.

The Mayor opened the table to Council comment.

Mr. Lawhorn commented that UDance was a great example of a positive impact on the community. He explained that not only were their actions great, but it had a tremendous impact on the high school students in the area where they as well raised money for the B+ Foundation; some high school students worked at the event to collect money for their own schools. As the topic of how UD affected the community was a frequent discussion, this was a positive impact; not only on the money raised, but on young students approaching adulthood as it was great to see them spending time and effort to raise money for a charity. He expressed how positive it was for the community to be involved in and thanked the University.

Mr. Markham mentioned the previous discussion about monthly meetings between the City and UD's Planning departments. Ms. Olsen affirmed that these discussions were beginning, and this would mean they could share developments on either side to inform each other. Mr. Markham asked if Public Works & Electric were already talking monthly to UD, Ms. Olsen confirmed. He explained that he himself met quarterly with the Executive Vice-Presidents of UD to make sure Council knew there were definite efforts made to communicate between the City and University, thanking Ms. Olsen for her work as well.

6. 2-B-2. STUDENT BODY REPRESENTATIVE(S) (5 minutes per speaker) (2 minutes):

11:51

Ioannis Chremos, Graduate Student Government (GSA), announced that this was his final meeting with Council as a Graduate Student Representative. He expressed it was an incredible privilege to collaborate with such dedicated individuals striving towards the common goal of creating a welcoming and vibrant environment for students, residents, and visitors of Newark. He wanted to reflect on past accomplishments and highlight the value of what graduate students bring to the City, mentioning he looked forward to the exciting future ahead.

He explained that over the past few years, housing had been the top issue for students; in the previous year, the City had made significant strides in addressing this issue not only for students, but for all residents as well, seen in the efforts made for affordable housing. Through the collaboration between the City and both UD & their student body, there were innovative housing solutions that would be positive if implemented in the City by allowing accessibility and affordability for all. He expressed that this endeavor was a testament to the power of how someone like him, coming from Greece, could engage with the City of Newark, the University, and other stakeholders, as well as the importance of fostering essential shared responsibility for the wellbeing of everyone. Mr. Chremos went on to explain that graduate education was a cornerstone for the City's future and success through bringing a wealth of knowledge, creativity, and passion. He hoped that in the future, Council would continue to appreciate what a graduate student could bring to the City. Mr. Chremos reminded that it was still their responsibility to cultivate the environment and thanked Council for giving him this opportunity to contribute to the prosperity of Newark.

Mr. Chremos concluded that he was aware challenges remained, but there were exciting prospects as well. By maintaining a spirit of collaboration, sharing how pleased he was hearing about the City and UD's prior collaborations, he was confident that new ground could be broken, and the pursuit could continue of making Newark even more beautiful and inclusive for all. He once again thanked Council for allowing him to speak before them twice per month; he expressed that it was an honor to collaborate with them and that he was excited to see what the future held for the City of Newark.

The Mayor opened the table to Council comment.

Mr. Markham commented that Mr. Chremos should take pride in his work, moving a boulder for both UD and the City. He wished him well and good luck in the future.

Ms. Creedy expressed it had been more than a pleasure working with Mr. Chremos and while it was sad to see him leave, she was overall glad that Council had the opportunity to be in his presence as well as work with him.

Dr. Bancroft echoed Ms. Creedy's words.

7. 2-C. CITY MANAGER (10 minutes):

17:03

Mr. Coleman informed Council that there were two new management hires. The first, Stephan Rukowicz, was the new Planning & Design Engineer in the Public Works Department. Stephan came from a private industry where he worked for the last 18 years: McCormick Taylor, a local engineering firm near the hospital. The second, George DeBenedictis, who had over 25-30 years of experience in Code Enforcement, most recently for the City of Smyrna. He explained that Mr. Rukowicz started April 17, and Mr. DeBenedictis will start on May 15.

Mr. Markham responded he thought Mr. Coleman would mention the Electric Service Award that was recently published. Mr. Coleman informed that Newark was among the most reliable of public power agencies, which were generally considered to be more reliable than private power companies. Mr. Markham affirmed that this was important.

8. 2-D. COUNCIL MEMBERS (5 minutes):

18:30

Mr. Lawhorn:

- No comment.

Mr. Suchanec:

- No comment.

Ms. Ford:

- Informed that the Ad Hoc committee to assist Aetna with fundraising and finding sustainable funding met April 21, and the state and county legislators were invited. Representative Paul Baumbach, Senator Mark Schoesler, County Councilwoman Valerie George joined the President & Deputy Chief of Aetna, the City Manager, the Finance Director, the Communications Director, and Ms. Ford herself. Representative Baumbach presented legislation that he had drafted: HB127, an act to enable legislation that provided each county with ability impose by duly enacted ordinance of fire protection fee. This was an important step towards getting sustainable funding, not only for Aetna, but other fire services as well who face the same financial challenges. Ms. Ford stated that she would ask City staff to draft an item for the May agenda asking Council to support passage of HB127.
- Recounted the event that caused the evacuation of 3000 Fountainview on March 16. In the last few weeks, she had been collaborating with tenants and the office of the State Commissioner of Insurance to resolve any issues with the residents' insurance coverage. She read the City Manager's report dated 4/21 and considering the recent flooding at Fountainview as well after discussions with Aetna, she hardly agreed with Mr. Coleman's recommendation for an emergency services coordinator. That would add a position for someone to supervise the City's overall emergency planning and emergency plans to meet crises such as the event at Fountainview. As Council approved the development projects for more high-rise buildings, the threat of fire and flood was both imminent and heightened, with the possibility of loss of life heightened as well. After once again expressing she wished to see that added, she herself intended to look at the existing emergency policies and become familiar with them. She thanked Mr. Coleman for his recommendation. Mr. Markham asked if she hoped for that resolution to be presented at the May 8 Council meeting, to which Ms. Ford confirmed.

Ms. Creecy:

- Stated that she would like to have someone in the position of emergency services coordinator, due both to the recent work with Fountainview as well as West Knoll in her own district. Working with City services, she saw the need for someone to mediate and work in the middle since the City staff can be spread thin at certain times. Affirmed she agreed with what the City Manager had in store.

Dr. Bancroft:

- Appreciated the efforts in working with Aetna. He expressed that developing the financial boosting of Aetna made sense and commented that putting signs on the sides of City trucks seemed like good outreach.
- Vocalized his boost for community during Ag Day. Dr. Bancroft encouraged using the warm weather to one's advantage in going outside, mentioning the passing of Earth Day as well to enjoy nature. He hoped that residents would go out to the parks on draft, mentioning what he witnessed in activity at Handloff. He asked to be notified if an event would be held at Rittenhouse Park, suggesting that one could be held on the south side.
- Mentioned the upcoming Memorial Day parade, hoping that residents would come to show their support.
- Recognized the concern about the implementation of ongoing green grid movements, knowing that it would be hard to stomach old coal plants for a long period of time. He hoped this would be figured out in the future, and hoped the public would pay attention as well.
- Acknowledged the recent legalization of marijuana in Delaware, noting that he had only noticed good behavior in the area and encouraged it to continue.

Mr. Markham:

- Asked Mr. Coleman if the emergency management coordinator position was planned to be added to the budget for next year. Mr. Coleman confirmed, explaining that the job description was currently being finalized, and the intent was to work with the compensation consultant to figure out where that should be. NPD Chief Farrall recommended the idea to send the job description to Dave Carpenter in the Delaware Emergency Management Agency (DEMA) for review. It would be included in the 2024 budget once complete.

9. 2-E. **PUBLIC COMMENT (5 minutes per speaker) (10 minutes):** None

10. 3. **APPROVAL OF CONSENT AGENDA: (1 minute)**

- A. Approval of Council Meeting Minutes – March 13, 2022
- B. Approval of Council Meeting Minutes – March 20, 2022
- C. Receipt of Planning Commission Minutes – March 7, 2023
- D. Receipt of Alderman's Report – April 6, 2023
- E. Recommendation to Amend the 2023-2027 Capital Improvement Program to Incorporate Additional Energize Delaware Grant Funding

- F. Appointment of Kazy Tauginas as the District 4 Representative on the Planning Commission for a Term to Expire September 15, 2024. (Incorrect expiration date listed as September 15, 2025 on the March 13, 2023 agenda)
- G. **First Reading – Bill 23-08** – An Ordinance Amending Chapter 27, Subdivisions, and Chapter 32, Zoning, Code of the City of Newark, Delaware, By Waiving Subdivision and Zoning Fees, and Removing Parking Requirements for Affordable Housing Projects and Adding Affordable Housing to the Site Plan Approval Criteria List – **Second Reading – May 22, 2023**
- H. **First Reading – Bill 23-09** – An Ordinance Amending Chapter 27, Subdivisions, Code of the City of Newark, Delaware, By Amending the Timelines for Processing Development Submissions and Creating an Expedited Review Process for Affordable Housing Projects – **Second Reading – May 22, 2023**

25:20

Ms. Schiano read the consent agenda into the record.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: TO APPROVE THE CONSENT AGENDA AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn
Nay – 0.

- 11. 4. **APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS:**
 - A. Appointment of James Cloonan to the At-Large Vacancy on the Board of Adjustment for a Term to End September 15, 2025

27:35

Mr. Markham explained that the Board of Adjustment had been short-staffed, and that it was an important board to make decisions. The Board of Adjustment made decisions that Council could not override at times, so it was very important to have someone on the Board that could understand numbers and civil engineering. He noted that Mr. Cloonan had been on the City’s Fire Protection Board, which never met, so Mr. Markham reached out to him to use his skills elsewhere. Mr. Markham recommended Mr. Cloonan to fill this position.

The Mayor opened the table to Council comment.

The Mayor opened the floor to public comment.

Mr. Markham commented Mr. Cloonan and the City Solicitor would become very closely connected regarding talking about the law, to which Mr. Cloonan joyfully affirmed.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL APPOINT JAMES CLOONAN TO THE AT-LARGE VACANCY ON THE BOARD OF ADJUSTMENT FOR A TERM TO END SEPTEMBER 15, 2025.

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn.
Nay – 0.

- 12. 4-B. **APPOINTMENT OF KELLY TOMPKINS TO THE AT-LARGE VACANCY ON THE NEWARK HOUSING AUTHORITY FOR A TERM TO END APRIL 24, 2026**

29:23

Mr. Markham introduced that Ms. Tompkins had been working with the Emmaus House and Friendship House. He believed that she would bring a good viewpoint to the Newark Housing Authority and would also completely fill the Housing Authority Board as well.

The Mayor opened the table to Council comment.

Ms. Creecy thanked Ms. Tompkins for her work with the homeless of the community.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. MARKHAM, SECONDED BY MR. LAWHORN: THAT COUNCIL APPOINT KELLY TOMPKINS TO THE AT-LARGE VACANCY ON THE NEWARK HOUSING AUTHORITY FOR A TERM TO END APRIL 24, 2026.

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn.
Nay – 0.

13. 5. **ITEMS NOT FINISHED AT PREVIOUS MEETING:** None

14. 6. **SPECIAL DEPARTMENT REPORTS:**

A. Fiscal Year 2022-2023 First Quarter Pension and OPEB Update – Vanguard/Finance Director (20 minutes)

30:30

David Del Grande, Finance Director, first introduced Andrew Zimmerman, DT Investments' Chief Investment Strategist, who served in role as financial advisor to the City and worked with City staff and Pension Committee to oversee the pension and Other Post Employment Benefits (OPEB) accounts. He also introduced Eric Klein, Vanguard Senior Investment Consultant, and he and his team actively managed the investments contained within the City's Portfolio. Mr. Del Grande directed the presentation to Mr. Klein.

Mr. Markham pointed out to Council that they were the Board of Trustees for the retirement accounts, so they were the final responsibility for making sure those funds performed properly.

Eric Klein, Vanguard Senior Investment Consultant, began by thanking the committee for helping to organize and coordinate the slides of the presentation this evening. He shared the results of the (challenging) full calendar year of 2022. The One Year resulted at nearly -15.5% return for the full year of 2022. He once again noted it was a challenging year as there were both stocks and bonds providing negative results during that time. He pointed out the Investment Policy Statement (IPS) Composite Benchmark, noting that it was important to keep track of the portfolio and measure it in multiple ways as far as what that benchmark was. The benchmark only dropped about 13%, meaning the portfolio did underperform the benchmark during that time. He noted this was actively being watched since there was active management in the portfolio, and the goal would be to outperform those benchmarks over time. The OPEB Plan similarly resulted in -15%. For the fourth quarter of 2022, there were more positive results, with the Pension Plan result at roughly 7.2% was the return for the quarter. This was slightly ahead of the two benchmarks below it, which both came in roughly at 6.6%. What helped during this time was international equity outperformance such as international stocks as well as active management on the fixed income side. As for the Market Value column, there was \$80.4M for the Pension Plan, and \$16.3M for the OPEB Plan, coming in at \$96.7M for the full year.

Moving along to the update through the end of March 2023, Mr. Klein noted that the Market Value was at \$84.4M for the Pension Plan and \$17.35M for the OPEB Plan, totaling \$101.8M at the end of the first quarter of 2023. As in the fourth quarter of 2022, where stocks were a bit higher and bond yields were a bit lower (meaning bond prices appreciated), a similar course of events was observed throughout the first quarter of 2023. In the Three-Month column, the Pension Plan returned about 5%, slightly ahead of the IPS Composite benchmark. The OPEB Plan returned just over 5% compared to a similar benchmark. Mr. Klein explained that these better results were due to active management in the US equity space as well as the International equity space. Helping were fixed income and real estate right in line with their benchmark results.

Mr. Klein went on to share information regarding the economy, such as what had happened, what the outlook was, and what had been taking up the financial press. He presented the U.S. Treasury yield curve, displaying three lines: a red line for March 31, 2022, a yellow line for December 31, 2022, and a green line for March 21, 2023. He pointed out a significant gap between the red and green lines on the shorter-term end of the curve, which indicated that the Federal Reserve had been looking to tighten financial conditions by increasing rates. This also increased yields and future returns for investors in that part of the market. Mr. Klein explained that as shown on the yield curve, generally rates had gone up

strongly over the past twelve months, with a 457-basis point move on the 1-month treasury equating to 4.57%. Generally, rates had risen across the curve during this 1-year period. What would shape the other side of the yield curve would be future expected inflation and growth levels, pointing out that the longer end of the curve was rather inverted. This meant that it was rather lower than the short-term end of the curve. The economy was expecting to slow down, but it was not known what that would entail for returns; this is why it was believed that staying fully invested was a good idea.

Mr. Klein continued by summarizing the economic outlook. Overall economic growth was expected to slow, being driven by monetary policy; central banks were raising rates to help tighten financial conditions in effort to reduce inflation, which had come down from roughly 9% to about 5% year over year. These better numbers were what central banks around the world were currently focused on. Moving onto the outlook for returns, Mr. Klein explained that equities, recalling 2022's poor year, had made evaluations a little better by making stocks cheaper, resulting in expected returns to be rather higher. There was a similar situation for government bonds, and then credit or corporate bonds. Higher yields generally meant for higher returns looking ahead, which was good news in thinking of Pension and OPEB Plans and those expected returns which were roughly 6.5% based on Vanguard's ten-year outlook.

The Mayor opened the table to Council comment.

Dr. Bancroft asked for clarification on the basis point fee charged and if that were in line with other competitors that Vanguard would face in this situation. Mr. Klein confirmed this charge was 13 basis points for the expense ratio, 7 basis points for advice, and 20 basis points all-in. He believed this was competitive, putting them in the bottom quartile, or even the bottom decile. He went on to explain that Vanguard was owned by its investors, and as those investors had a say in how those services were priced, so those were kept as low as possible.

Ms. Ford mentioned that with the increase in interest rates also came increase on Certificates of Deposit (CDs) and fixed income security, and asked how Vanguard would change strategy, and how if they already were. Mr. Klein responded that regarding this strategy it was important to know that rates had not been this high at the short-term end of the curve since the mid-2000s. He explained that as they thought about how to position the portfolio, the goal was to be fully invested to earn a return that was certainly above that risk-free rate, considering actuarial requirements to fully fund the plans over time and to meet the expectations they had. He explained that concerning short-term rates in the treasury, those were generally risk-free rates. Considering risk-free rates, Vanguard would put the portfolio fully invested into risk asset classes, which were expected to provide a risk premium above the risk-free rates. On top of that, Vanguard had a substantial level of active management; those managers were paid based on their ability to outperform not only the risk-free rate in addition to the risk premium, but even adding more return on top of that. They would not plan to position the portfolio into risk-free rates; however, they would plan to keep it invested in risk asset classes that were expected to earn a premium above those based on the long-term expected rate of return.

Mr. Suchanec asked how much of a role the City staff had in influencing the investment strategy for the portfolio. Mr. Klein responded that Vanguard's goal was to follow the investment policy statement that had been agreed to and remain within those guidelines, as well as focus on strong long-term returns based on the horizons dated within it. Mr. Coleman stepped in to explain the City had the Pension Committee that reviews performance of the investment advisor (Vanguard), as well as an investment consultant from DT Investments (Andy Zimmerman) that reviewed their performance and provided the City his own independent view of so. Council had set investment guidelines as different percentages for each asset class, and it was up to Vanguard to decide if they wished to be underweighted or overweight in each category, with the goal being to meet or exceed the requisite benchmark. It would be staff's role to review their performance vs. the benchmark, decide whether to stay with Vanguard, then to make recommendations to Council based on that review. However, the City did not get into the day-to-day of those investments.

When Mr. Suchanec asked how often Council would set those targets, Mr. Coleman explained that it had been about ten years since the general guidelines were set. However, they were rather broad, with most classes at 10-15%. Mr. Suchanec asked if they needed to be looked at more frequently. Mr. Coleman did not think so but offered Mr. Zimmerman to comment.

Andrew Zimmerman, DT Investments, explained that the investment policy statement was created in March 2016, but there was a rather wide range for each asset class with a target percentage. The manager had flexibility inside, but broadly it was 65% risk, 35% bonds. It was not something that needed to be tactically adjusted but was a typical IPS for public funds such as these where there was a 5–7-year economic cycle horizon. He continued to explain that within those broad parameters, Vanguard

had flexibility as an active manager to do the best they could to meet those strategic targets and hopefully outperform.

Mr. Suchanec asked if there were any Vanguard products in the mix regarding the investments. Mr. Zimmerman clarified that everything was a Vanguard fund. He explained that as a combination half were passive and half were active, where Vanguard had active sub-advisors, however every fund was a Vanguard fund. Mr. Suchanec asked for clarification on as Vanguard performed, that meant the City would perform, to which Mr. Zimmerman confirmed. Mr. Coleman stated that prior to Vanguard, there was Russell, and the fees were significantly greater than Vanguard's at 80 basis points. When the search for managers was conducted in April 2016, one of the requirements was to lower the fee, with Vanguard being the most competitively priced institutional asset manager.

Dr. Bancroft mentioned, as the Council was in the Trustee role, he wondered how much they should push for Environment, Social, and Governance (ESG) or anti-war profiteering. He acknowledged they did not invest in crypto, and he did not know where that would live on their radar. He mentioned it would be interesting to think about regarding de-carbonizing their Pension fund, but that would be for another topic.

Mr. Markham pointed out the underperformance, understanding steps had been taken around that but wanted to make sure that Vanguard knew Council noticed as well. His expectations when having a managed amount of money were that these things did not happen, and that it was being actively watched and taken care of. It was not unnoticed, but he assumed they would make it up. He noted that an individual's basis points were around 150. Mr. Markham asked Mr. Klein for his opinion on bank failures vs. interest rates.

Mr. Klein recalled the recent scenario with Silicon Valley Bank (SVB) and others, acknowledging that when all depositors would arrive on a given day it would be difficult for any bank to stay in business, especially with a specialized clientele. He believed that regarding the Fed backstopping deposits and essentially trying to prevent this from continuing, there was bank stress (not exactly a bank in crisis) with the goal being to keep it from getting to that point. This would reduce the risk of contagion by ensuring depositors and making sure they received everything back. He mentioned that market pricing was now saying one more rate increase on May 3 would take them to the range of 5-5.25%; Vanguard's view did not think that was enough and that the Fed would need to do more to reduce inflation to a more sustainable level. The target over the long term was 2%, currently a long way away from so at 5% year over year. It was believed that it will be 3-3.5% as of the end of 2023. Mr. Klein went on to explain that the Fed believed the banking system was strong, but it was difficult to tell now. It could be considered that three more increases could be the max, whereas market pricing could say one. However, all could agree that the Fed was more likely towards the end of their typing cycle.

Mr. Markham assumed that Vanguard did not have the same type of exposure that SVB did in terms of having bonds that became less valuable as the Fed increased the interest rates, leaving them exposed. He asked if they had this exposure. Mr. Klein explained Vanguard did have a lot of exposure. Having roughly \$1T in assets, Vanguard had a long-term treasury index that was in a similar place. If there was a bond fund that had 18-20 years of duration, if the rates were to go up by 1%, roughly 18-20% of that value would be lost at that point in time. If those bonds were held in maturity, it would be fine, but he believed if one were to hold long duration treasury securities as SVB did and marked them to market, suddenly it could be seen how undervalued they really were. SVB did limited hedging to hedge that interest rate risk away. Other institutions did more of holding other bonds, securities, and futures to help mitigate that interest-rate risk, so that was why more capitalization was needed.

Mr. Markham asked if Vanguard's bank stocks were reviewed. Mr. Klein confirmed that was provided to the committee as far as what that exposure was on the affected banks; he clarified they could continue to provide updates there if needed, and there were low exposures.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MR. SUCHANEC: THAT COUNCIL ACCEPT THE REPORT AS PRESENTED.

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn.

Nay – 0.

15. 7. **FINANCIAL STATEMENT:** None

16. 8. **RECOMMENDATIONS ON CONTRACTS & BIDS OVER CONSENT AGENDA LIMIT:**

A. Certificate of Emergency for the Purchase of 5 Vehicles – City Manager (10 minutes)

B. Recommendation to Waive the Bid Process in Accordance with the City of Newark for the Purchase of Sixteen (16) Police Vehicles and Two (2) Vehicles for the Electric Department – Chief Procurement & Projects Officer – (10 minutes)

52:44

The Mayor announced that Items 8-A and 8-B would be discussed simultaneously.

Jeff Martindale, Chief Procurement and Projects Officer, explained that 8-A provided certification from the City Manager required by Code relating to emergency vehicle purchases that would be outlined in 8-B. All purchases were completed in compliance with City Code and will be discussed more fully with the next agenda item. He asked Council's permission to move onto 8-B for discussion.

Mr. Coleman confirmed that everything was explained in 8-B, and that 8-A was the formal certificate, so the latter could be revisited after explaining everything in the former.

Kevin Feeney, Deputy Chief of Police, began that at the August 15, 2022 Council meeting NPD staff requested authorization to purchase 15 Ford Interceptors citing supply chain issues and lack of availability of police vehicles. Council approved the purchase, and the vehicles were ordered within a few days. By March 2023, Ford had not yet provided bill dates for the 15 vehicles and Winner Ford could not provide any projected timeline. Furthermore, Winner Ford advised that 3 of the 15 Interceptors had neglected to be ordered due to an error by the sales representative. By this time, the order window for the 2023 Interceptors had closed and these vehicles could not be ordered. Staff conducted research and found that Dodge was the only manufacturer still accepting orders for the 2023 police vehicles. After speaking with Hertrich Fleet Services, staff was advised that Dodge was expected to close the 2023 order window for the Durango on any day. Mr. Feeney said that unfortunately, this evening was the earliest meeting he could get before Council to discuss this issue. Therefore, staff engaged the City Manager in a discussion regarding authorizing the emergency purchase of 3 of the unordered vehicles. Regarding the 12 remaining Interceptors that are still on order, they had no bill dates, and the fear was that Ford would ultimately cancel the order in its entirety. As detailed in the memo provided to Council, staff's plan was to cancel the approved purchase order with Winner Ford and then purchase 12 Dodge Durangos from Hertrich Fleet Services upon the approval of Council. Hertrich Fleet has already ordered the additional vehicles with no obligation to the City should Council approve with guaranteed receipt of those vehicles.

The Mayor opened the table to Council comment.

Mr. Suchanec asked for clarification if the Dodge window was closing also, and why Council should be comfortable putting all orders in with Dodge. Mr. Feeney explained that the Fords had been on order since August 2022 with no bill dates. Two Dodge vehicles were ordered earlier this year and were received. The expectation was that Hertrich had ordered these vehicles and confirmed they would be the City's if Council approved, meaning that the window closing was not a worry. Mr. Suchanec asked if the expectation were that a similar situation with the Fords would be avoided, to which Mr. Feeney confirmed not as Dodge had proven.

Dr. Bancroft commented that he appreciated the thought of putting money where the service was best and asked that Council could be kept informed if there was any trouble, acknowledging the procurement issues through the pandemic. Mr. Feeney mentioned that he did not think the situation to be any fault of Winner Ford, as the fleet managers were also unaware of the status of the vehicles and gave the option of either waiting or moving on, and he believed it was wiser to move on.

Ms. Creecy asked for clarification that two Dodge vehicles were received already. Mr. Feeney confirmed so, in that earlier this year two were ordered, one being a replacement for a crashed vehicle. Those were ordered in January and already acquired.

Ms. Ford asked if the Ford vehicles were selected because of previous issues with the Durangos. Mr. Feeney explained that Dodge Durangos had not been utilized by the NPD in several years and that previously they utilized and experienced problems with the Chevy Tahoes, particularly the 2017 model.

They only had one Durango years ago and did research with Allied Agencies who showed positive success with the vehicles.

Mr. Markham pointed out that these were not hybrids like the Ford vehicles so there would be a little difference in fuel cost. Mr. Feeney explained the Durangos were six cylinders; he specified that Chief Farrall had one of the Ford hybrids currently with about a 1-2 mile per gallon difference in what was currently being experienced and what the ratings were for the Durangos. The difference came in when the vehicles would sit, the battery would kick on and kick off repeatedly in the hybrid. This would not be the case with the Durangos. Mr. Markham noted that he wished to make Council aware as they had a directive to go hybrid or EV when possible. Mr. Feeney commented that Ford was insinuating the issue with the vehicles was that they were hybrids.

Mr. Coleman added that the Durangos were less expensive, and the last time a Ford went from one model year to the next it went up by \$5K.

Mr. Feeney interjected to confirm the second Durango ordered was found on the lot, and confirmed there was a 2021 Ford that got kicked to 2022 that was never even built.

Mr. Markham remarked that if he understood correctly, this would satisfy the department's needs for two years by providing many vehicles, hoping that Council would not have to address the police. Mr. Coleman recounted that the prior plan was to pull vehicles from future years and ordered them last year in anticipation of having a long wait time, not expecting it to be this long. Mr. Markham asked if these vehicles were acquired all at once, could the Yard handle them as they would still have to be fitted. Mr. Feeney mentioned that would be the next challenge, explaining that working with Delmarva in the past had been positive. Twelve vehicles being sent to them all at once would take a bit of time, approximately a couple of months, but there was confidence it would be managed.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

The Mayor noted that these items would have to be addressed with two different votes.

Mr. Martindale clarified that was regarding Vehicles #1-15, and there were three vehicles that still needed to be discussed. He began to explain that on March 31, PD, Fleet Maintenance, and himself met to discuss vehicle alternatives that met the specifications of the EV grant provided by Energize Delaware. Energize Delaware had the concern that the City would not be able to find electric pickups within the two-year order window required for the grant, and subsequently encouraged them to reduce the requested number of pickups from two to one. They wanted to make sure the City had a plan in place to meet this order window to allow the City greater opportunities for future Energize Delaware grants. At this meeting, PD's Bill Hargrove and the garage's Dave Vispi found a vendor in New Jersey and a vendor in Philadelphia who had a Ford F150 Lightning available, but indicated these vehicles likely would not last long if the purchase order were not received. With grant funding covering on Lightning for PD, and an approved budget available for a Lightning in the Electric department, they mobilized quickly to place the orders knowing the likelihood of finding these vehicles would be slim to none for the next several years otherwise. Both Lightnings had been received and were currently being prepared for upfitting.

He went on to explain that similarly, while looking for electric SUVs funded through the Energize Delaware grant, they were able to find one Volkswagen ID.4 from a vendor in West Chester, PA. With these vehicles moving quickly as well, staff issued a PO for the purchase of this vehicle as well, but it had not yet been received. Council's approval of these purchases (Mr. Martindale clarified the three vehicles aforementioned) would bring the City's total electric vehicle count to 10, and to the best of his knowledge at this time, allow Newark to become the first municipality within the state of Delaware with an electric police patrol vehicle.

The Mayor opened the table to Council comment.

Ms. Creecy asked for clarification if two vehicles were received, and one was missing. Mr. Martindale clarified that this was so, and they should be expecting the last vehicle on Monday.

Mr. Suchanec asked if those in the maintenance division were comfortable with the recent changes to the makes and models of these vehicles. Mr. Martindale confirmed that Dave Vispi and his group had been instrumental in the development of the ED grant application, so nothing was submitted for approval without the garage's sign-off. Mr. Coleman commented that the mechanics may have been

the most excited about the Ford Lightnings. Mr. Markham asked if there would be training for mechanics on these vehicles, to which Mr. Coleman confirmed so.

Mr. Markham asked what the color of these vehicles were. Mr. Martindale explained that the electric vehicle was a dark blue, and the police vehicle was black. Mr. Markham commented that the residents were used to seeing white official City vehicles and the change in color was an adjustment that would have to be communicated to them. Mr. Martindale hoped that this would only be temporary as this situation was urgent. Mr. Coleman pointed out that the police vehicle would be ordered in black anyway, and the electric vehicle was an extremely dark blue that was at first thought to be black. However, he hoped to get back to white as soon as possible. Mr. Martindale noted that all other markings, decals, and numbers were marked as any other vehicle so it would be easy for a resident to call and confirm if a vehicle were official.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT COUNCIL ACCEPT THE CERTIFICATE OF EMERGENCY FOR THE PURCHASE OF 5 VEHICLES OUTLINED IN THE APRIL 19, 2023 STAFF MEMO.

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn.
Nay – 0.

The Mayor proceeded to move onto the vote for 8-B.

MOTION BY MR. LAWHORN, SECONDED BY MS. FORD: THAT CITY COUNCIL WAIVE THE BID PROCESS IN ACCORDANCE WITH THE CODE OF THE CITY OF NEWARK FOR THE PURCHASE OF 15 DODGE DURANGO PURSUIT ALL-WHEEL DRIVE POLICE VEHICLES AS OUTLINED ABOVE, 2 FORD F150 LIGHTNINGS, AND 1 VOLKSWAGEN ID.4 AS OUTLINED IN THE MEMO ABOVE.

MOTION PASSED. VOTE: 6 to 0.

Aye – Markham, Suchanec, Ford, Bancroft, Creecy, Lawhorn.
Nay – 0.
Absent – McDermott.

18. 9. ORDINANCES FOR SECOND READING & PUBLIC HEARING:

- A. *Second Reading* – Bill 23-07 – An Ordinance Amending Chapter 20, Motor Vehicles, Code of the City of Newark, Delaware, By Removing the Traffic Control Device at the Intersection of West Park Place and Apple Road and Replace with a Four Way Stop Intersection**

1:07:13

Ms. Schiano read the ordinance into the record.

MOTION BY MS. CREECY, SECONDED BY DR. BANCROFT: FOR SECOND READING AND PUBLIC HEARING.

Mark Farrall, Chief of Police, explained that in January 2023, Peter Haag, Chief of Traffic Engineering for DelDOT, contacted the City of Newark to address a deteriorating City of Newark utility pole at the intersection of West Park Place and Apple Road. At that time, Mr. Haag requested that the City assess the pole to ascertain its structural integrity. Mr. Haag also suggested that the City should consider the transition of the intersection from signalization to an all-way stop. The Electric Department stabilized the pole and the suggestion for an all-way stop was sent to the Traffic Committee for consideration. On February 21, 2023, the Traffic Committee met, and Mr. Haag presented his proposal to the committee. He related that the intersection does not meet the traffic volume threshold for a traffic signal and therefore recommended a step-down treatment in the form of an all-way stop. Mr. Haag presented a plan to transition the intersection which included signage, working with the City on messaging, placing the existing light on flash and a post-implementation evaluation period.

Mr. Markham interjected to make sure Council understood. Ms. Creecy asked for clarification if this was in her district, to which Mr. Coleman pointed out that the north side was in her district, and the south side was in Dr. Bancroft's.

Chief Farrall continued to state there were no members of the public present or online for the meeting. The committee voted 5 to 0 in support of this proposal. He directed the discussion to Sonya LaGrand, Traffic Studies Manager with DeIDOT, to explain the proposal in further detail. He clarified that while not included in the memo, this would not be a process of simply removing the light; there would be a study process to evaluate the feasibility of this project in the long-term. It would be an assessment from both the City of Newark and DeIDOT to confirm this would work properly before officially taking everything out.

Mr. Markham noted that it was important for Newark residents to understand that, considering the difficulty getting a traffic light, that there are warrants needed for a traffic light to serve a location. Chief Farrall mentioned that a prior analysis of crashes on that intersection was done from January 2018 to 2023; the total number recorded was seven. Three were caused by failure to yield on left-hand turns, three were red light violations, and one was an improper passing/hit-and-run.

Sonya LaGrand, Traffic Studies Manager with DeIDOT, began by recalling Chief Farrall's previous explanation of Peter Haag's suggestion to convert the traffic signal to an all-way stop. She mentioned that as there were structural issues with the pole, if this change were not long-term then the City would have to make accommodations to the pole. She noted that for the past five years DeIDOT had implemented all-way stops across the state, with 23 implementations so far and crashes reduced by 70% at these locations since. She explained that DeIDOT also pulled crash data of their own with a different window of time between February 2020 to February 2023; four crashes in three years were recorded. Two of them were angle crashes which a signal was usually used to correct.

Ms. LaGrand explained the first step of the process would be that thirty days prior to the conversion of the signal, signage would be installed to notify the signal was under study for removal at each leg. The signal would still operate as normal. One week prior to the conversion, signage would be installed to notify that new traffic patterns would start at the selected date, and at that point would the signal go into flash mode. The day of the conversion, the signal would be on flash mode, and law enforcement would be present. DeIDOT would install stop and stop-ahead warning sign assemblies, and the legend of the signage would be changed to notify of new traffic patterns ahead. Observations would be made on that day of conversion. One week after, there would be a review of the traffic operations at the intersection, and two months later, there would be another review as well as another traffic analysis of the crashes. She clarified this would still be in the flash mode period. She went on to explain that six months later, the plaques for new traffic patterns and signal under review would be removed. The full twelve-month analysis would be done after one year. In a perfect scenario, this process would last a year, and at that point a decision would be made.

The Mayor opened the table to Council comment.

Ms. Creecy commented that she would promote the all-way stop, and that she did like that there would be a study in between before things were moved forward. She asked that she and Dr. Bancroft were kept updated via email as this impacted their districts.

Dr. Bancroft thanked Ms. LaGrand for sharing the detailed plan, noting the interest in the community. He mentioned due to the brief blurb heard prior that the public were eager to share their opinions. He believed that this presentation and meeting would help assuage the concerns of the public, and they could share their input.

Mr. Lawhorn asked for clarification that the red light at the intersection would go on flash mode at every point of the intersection. Ms. LaGrand replied that it would flash either yellow or red depending on the leg. He then asked for clarification that the one-year goal was to eliminate the signal and only use stop signs. Ms. LaGrand confirmed this would be so if all parties agreed. After the one-year period if it were decided to remove the signal, crash data would still be collected every year to reevaluate if the signal's removal was positive. Mr. Lawhorn supported the process.

Ms. LaGrand recognized the community's concern, explaining it would decrease delay due to the right of way process when approaching a stop sign.

Ms. Ford mentioned that she attended DeIDOT's 2022 Everyone Gets Home Summit and that she was aware of their policy to replace traffic signals with stop signs. She believed these policies had not

lowered motor vehicle accidents in Delaware, citing a record high in 2022 and anticipation of a higher mortality rate in 2023. She explained this intersection regularly saw many pedestrians. She also added that 33 pedestrians died on Delaware roads in 2022. Ms. Ford saw this as DelDOT wanting to move traffic faster rather than safer and she was strongly opposed to removing the signal. She mentioned she went through that intersection on her bike every day to-and-from the James Hall trail, due to the fact there was a signal to bring cars to a stop so she could safely cross that road. She continued to explain she went out of her way to avoid busy intersections with only stop signs rather than traffic signals. She believed stop signs to be ineffective as they were constantly ignored and rolled through by drivers, and she as a bicyclist always assumed that motorists across from her would not stop at the stop sign. She believed that approximately 80% of the time she was correct, and there was no way to enforce stop signs, whereas with a signal a camera could be installed to ticket motorists and stop violations. Ms. Ford stated she would not vote for this for the sake of the safety of pedestrians and bicyclists in that residential neighborhood and believed that putting a 4-way stop sign there would be irresponsible.

Mr. Suchanec agreed with Ms. Ford; unless there was a low inventory of traffic lights, he did not see why it would even be considered for removal. He believed the signal worked, it signaled, and it was fast enough to prevent an inconvenience. He did not believe DelDOT was viewing this with pedestrian and bicyclist safety in mind and viewed it strictly as their policy to replace signals with stop signs. He explained that in his experience of drivers converging at 4-way stops, many had no idea what the rules and regulations were. There were drivers who did not obey the rules of the road or occasionally allow another driver to go first as they themselves did not know who had the right of way, and if there were any pedestrians/cyclists, they would not be protected. Mr. Suchanec thought this was a bad move, did not recommend it, did not see a reason for it, and did not observe any public outcry to take the light out. He refused to support this. He recalled that he advocated for 4-way stops on Casho Mill Rd. and was told by DelDOT there was no justification for so. He suggested putting 4-way stops where control was needed but to not arbitrarily replace traffic signals with them as the traffic light did not inconvenience anyone and was a safety factor for pedestrians and bicyclists. He reiterated that he could not support the conversion.

Mr. Coleman shared that this was not an arbitrary selection and that the decision of putting a 4-way stop at this intersection vs. on Casho Mill Rd. was not either. He went on to explain that there were objective standards that were included in the manual on uniform traffic control devices called signal warrants. There were nine different warrants that an intersection was evaluated based off of such criteria as; traffic counts, pedestrian counts, turning movements and minor/major legs, among other items. If a signal was not warranted without an engineering judgement reason that was outside of the data showing it should be placed, it should not be placed. If the signal were installed there anyway, it would be open to potential liability depending on state law. In the case of Casho Mill Road., those intersections did not meet the signal warrants more than likely due to lack of cross traffic as the minor street volumes were too low. He explained that in this instance was Apple Road, with higher minor street traffic and many pedestrians with the school nearby; which was a consideration of the Traffic Committee when reviewing this location. The signal warrants here were not met, but the 4-way stop warrants more than likely were.

Mr. Coleman appreciated Ms. Ford's safety concerns but pointed out that on Park Place there were either signalized intersections or no stop control, and the only stops were at Apple Road, Orchard Road., and S. College Avenue which all had signals. There was also a dead end at Chapel Street. This would be the first stop sign at Park Place, and Public Works had been considering it since at least 2012. At that time, they considered potentially converting it to a roundabout and worked with the Chief Traffic Engineer at that time to consider different options but did not have the time to work on it specifically; however, staff were particularly interested when this opportunity arose due to the history. He also explained that another reason for this was that there were few signals operated by municipalities (almost all were operated by DelDOT instead, including in this case). He acknowledged the safety aspect of this change as well regarding the conversion of an unwarranted stoplight to a 4-way stop, citing a Philadelphia study in where around 500 were removed and averaged a 24% reduction in crashes at those intersections. He recalled Ms. LaGrand's statement earlier that DelDOT observed even higher reductions in their own studies and mentioned that they had a report he could forward to Council. At many intersections there was not much data on them yet due to the notion's relative newness, however the initial data in the first year looked considerable on the reduction in crashes. He recounted Chief Farrall's prior mention that half of the crashes were due to drivers ignoring the stop light, noting that an officer could be dispatched to periodically conduct stop sign enforcement (as the same could be done for a stop light due to the lack of a stop light camera.) He clarified that the main reason behind the decade-long observation was safety.

Chief Farrall recalled Ms. Ford's statement that stop signs were not enforceable and stated himself that they absolutely were. He confirmed the police could enforce stop sign violations.

Ms. Creecy reminded that she was from Philadelphia and confirmed that when many stop lights were switched to 4-way stops there was a reduction in accidents. She asked if there was a percentage of stop signs vs. traffic lights as she observed drivers ignoring traffic lights as often as stop signs.

Mr. Coleman explained that Philadelphia made that decision due to a court order stating they had to remove all signals that did not meet the warrants because of the liability issue mentioned earlier; it was a decision that was forced, not wanted.

Mr. Markham noted that these were timed lights that did not have any type of indication of anyone waiting for the light. Mr. Coleman confirmed that these lights cycled through a set timer 24 hours a day, irrespective of whether a car was at a certain leg; this could mean if someone were driving late at night, they could still hit a red light despite nobody else being at the intersection. This was part of what made the stoplight unwarranted. He mentioned that in many situations where drivers run stop signs, if the test on that stop sign were to be done, it would be likely the stop sign was not warranted in the first place. It might have been due to speed control or for the case of putting a stop sign up at an intersection. He explained the reasoning behind not suggesting putting in unwarranted stop signs or signals was that it would be disregarded anyway. There needed to be a minimum amount of congestion or interaction at that intersection to justify putting control there.

Ms. Ford remarked that she found the studies pertaining to Philadelphia irrelevant as her priority was the Apple Road./West Park Place intersection, which she was very familiar with and knew there were many bicyclists. She believed that while stop signs were theoretically enforceable, she believed they were frequently not enforced. She reported the primary complaint of Lumbrook residents was that no one stopped for any stop signs. She suggested putting up a red-light camera to automatically ticket offenders. She intended to vote against this for the sake of the community and did not have much faith in DeIDOT's concern for the wellbeing and safety of pedestrians and bicyclists.

Ms. Creecy thought it was unfortunate to hear Ms. Ford did not find the Philadelphia studies relevant as many of them could help the City of Newark and did not believe that was well stated. She expressed that she was speaking as a former resident of Philadelphia; she herself was in two car accidents and when this study & removal was conducted, the rate of crashes indeed went down.

Mr. Lawhorn was curious about the data. He referenced Ms. Ford's point that accidents increased overall throughout the state in 2022, but then for this specific change, there would be a significant improvement. He asked if that data was possessed or could be expanded on.

Ms. LaGrand responded she had the state report; there was not any after-data yet as the implementation had not yet occurred. Mr. Lawhorn said there were the overall state numbers, then the elimination of signals to 4-way stops which was said to have a positive impact overall from the Philadelphia data and the data in Delaware so far (that may be rather limited.) He asked if she could share whatever that data was.

Ms. LaGrand explained that there were 23 identified so far, and 20 had after-data. The annual crashes at these newly converted all-way stops were broken down by crash type. Before the installation there was a total of 88, and after the installation there was a total of 25, which was a 71% decrease. She clarified this was over the same period. She specified that crashes were not eliminated, but the severity of the crashes had come down as well as the number of crashes at these intersections. Crashes would happen regardless and could not be eliminated completely. Signals gave a false sense of security; all-way stops in function showed reductions in a document published on DeIDOT's State Strategic Highway Safety Plan. It had the emphasis area of intersections, and it showed the data broken down by every location conducted on and gave the total number of crashes. What was susceptible to correction with the signal was the angle crash. The crashes were not eliminated; it was the severity or type of crash. This was why there was hesitance in implementing signals. She stated that DeIDOT ran the nine signal warrants and this intersection had failed. There was not a reason for the signal to remain and conversion was an option to try to see if there was improvement.

Mr. Lawhorn asked if there was any data on pedestrian or bicycle accidents and changes in rate. Ms. LaGrand stated they did on a statewide scale but not specifically for the 4-way stop. As every 4-way stop did not have pedestrian crossings, this was not something always evaluated. DeIDOT did have overall pedestrian and bicycle information that was available in the system. Mr. Lawhorn commented that if this were approved, that would be something that could be monitored. He assumed that there were currently zero pedestrian crashes so it could be looked at over the course of this year if this were to pass.

Mr. Markham asked Mr. Bilodeau that if this were enacted, if Council changed their mind over the next year, they could reject this change and go back to a signal considering the signal would not be removed. Mr. Bilodeau confirmed they could change their mind and bring back the signal, believing Ms. LaGrand had said so, after reviewing over a period.

Mr. Suchanec commented that he previously tried to get signals at Casho and Barksdale. They fought for four years because DelDOT argued numbers as opposed to reality. It took four years to get that light there and he could not believe there was anyone that did not say that traffic light was needed and there should have been a 4-way stop because of numbers. He did not think he could say anything currently to change anyone else's minds that made their decision based on numbers presented. All he knew was that from his own experience, while there would be violations, traffic lights were mandatory stops. Stop signs were arbitrary and rolled through by drivers. At a stop sign at the bottom of Dallam & Hillside in District 1 he had seen drivers roll through, claiming they looked left and right and pulled out when seeing no traffic. However, there was a pedestrian walkway from the park to the other side of the street, and many drivers would roll through the stop sign but suddenly halt seeing a pedestrian in their way. If people were in a hurry, they would roll through the stop signs. He stated that he was looking at this from a reality point of view and not from DelDOT's numbers point of view, while he appreciated them. He did not know why the removal of the light was even being considered and that it was on such a fast cycle it could not possibly inconvenience anyone. He was not going to support this.

The Mayor opened the floor to public comment.

Ms. Schiano proceeded to read two letters from the public into the record.

Donna Hitchner, District 1, lived at a 4-way stop and stated that removing the traffic light was a step in the wrong direction. Every day, she witnessed drivers failing to stop or yield at her intersection and there were numerous instances daily of angry drivers and horn honking. Drivers seemed to be irritated by the requirement to stop at a stop sign which was not usually witnessed at a traffic light. She often traveled through Apple & West Park by car or bicycle and had not noticed any traffic backups. Any traffic issues present due to either school drop-off, pick-up, or funerals will likely remain, if not be exacerbated by removal of the light. She encouraged the City to leave the traffic signal in place to regulate cars traveling through the area.

Don and Charlotte Short, 930 Rahway Dr, were against removing the traffic light. They stated 4-way stops were dangerous on busy roads; drivers did not know how to yield the proper way and it would cause more accidents.

There was no further public comment, and the Mayor returned the discussion to the table.

Dr. Bancroft appreciated the rubric that Mr. Coleman set out and he had been able to investigate. He asked that Mr. Coleman email a version of that to Council as it would be useful information for them to have. He looked forward to seeing the real data to debate this in a more empirical way later.

Ms. Ford commented that last week when she came to Council, she stopped at the stop sign at Chapel Street & Wyoming Road to yield to the driver. The driver went through the stop sign and then the following car, who should have yielded to her, rolled right through on the fender. She believed that was an example of how drivers treat 4-way stop signs. She noted the residents of that area were not in favor of this.

Mr. Lawhorn explained that a 4-way stop he went through frequently had more traffic than most intersections mentioned. He specified this was by the Woodside Creamery up in Hockessin and was extremely busy, having around 15 cars backed up in all four directions. He did not have any problems at that intersection but was curious if Ms. LaGrand knew the data of that intersection. She did not know offhand.

Ms. LaGrand recalled the question of why this was being looked at and stated her prior mention of issues with the signal pole. The span wire was an older type of signal as well, and DelDOT was heading into a mast arm type approach. Even if the signal were to remain, it would still need to be addressed that were some issues that needed to be fixed. This was why it was brought to the forefront; DelDOT's signal maintenance group noticed issues with the pole and then they considered if it was even warranted. That was how the process started.

There was no further discussion.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT COUNCIL ADOPT BILL 23-07 AS PROPOSED BY REMOVING CHAPTER 20, SEC 210 (38) AND ADDING CHAPTER 20, SECTION 213(A), (240) AND SECTION 213(A) (241).

MOTION PASSED. VOTE: 4 to 2.

Aye – Markham, Bancroft, Creedy, Lawhorn.

Nay – Ford, Suchanec.

Absent – McDermott.

(ORDINANCE NO. 23-07)

19. 10. RECOMMENDATIONS FROM THE PLANNING COMMISSION AND/OR PLANNING AND DEVELOPMENT DEPARTMENT:

- A. Request of Ronald and Kathleen Lyons for a Special Use Permit to Construct an Inground Pool in the FEMA Designated Special Flood Hazard Area (SFHA) on the property located at 117 Delrem Drive — Planning and Development Department – (15 minutes)

1:44:56

Ms. Schiano read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT CITY COUNCIL INTRODUCE THIS SPECIAL USE PERMIT.

MOTION PASSED. VOTE: 6 to 0.

Michael Fortner, Senior Planner, first began to explain that 117 Delrem Dr was zoned RT. Ronald and Kathleen Lyons submitted a preliminary site plan and structural engineer's evaluation for a proposed pool to be reviewed by staff to explore the feasibility of the project. The staff's review was contained in this report. Since this required a special use permit, and further steps will require a lot of engineering, design, and City fees, the special use permit application was being passed to Council to see if they felt the project would meet the criteria for the special use permit before proceeding onto the rest. He explained to show information on the City's floodplain requirements and their purpose. In the zoning, the City regulated that the lowest floor area will need to be 18-in. above the base flood elevation and that all equipment be elevated. It would have to show that the project did not increase the flood elevations in the community for the 100-year flood plan. He showed the special use permit criteria and explained that with a floodplain there were additional criteria that Council should take into consideration when reviewing this application. When showing Departmental Comments, he noted that if Council approves this it would not be green lighting the project. That would be conditional on the applicant being able to meet all criteria of the City code, the Federal Emergency Management Agency (FEMA), the Delaware Department of Natural Resources and Environmental Control (DNREC), and part of the City's participation the National Flood Insurance Program. This would be getting Council's review that this meets the special use permit criteria, and they could move on to spend the extra money. This would be a considerable project to go through, and in going through all reviews, it would be conditional on all City regulations being met. He explained that the report listed all regulations that needed to be met, and that DNREC staff reviewed this as well and provided comments.

Mr. Fortner showed the recommendation to Council: because the proposed special use permit will not conflict with the purpose of the Comprehensive Development Plan V 2.0, because the proposed structure will not be injurious to property or improvements in the surrounding area, because the use can meet all zoning and special permit requirements, and because no relevant City departments have objection to the proposal if conditions are met, the Planning and Development Department recommended that the City Council approve the special use permit for the inground pool at 117 Delrem Drive with the conditions under the Departmental and DNREC Comments in the Planning and Development Report dated April 17, 2023.

Ronald Lyons, 117 Delrem Dr, appreciated the chance for this discussion. He stated the whole purpose was that before his contractor started spending the money, he wanted to make sure they would be allowed to move forward. He appreciated Mr. Fortner and Mr. Kennel's help in putting this together. He did not think an inground pool imposed any increase in the danger of floods for their neighbors, which was the main concern. He pointed out they were close to the top of the floodplain, but remarked he did not believe that mattered. He appreciated Council's consideration.

The Mayor opened the table to Council comment.

Mr. Lawhorn commented that this seemed completely fine to him. He thought the whole point of staff's outline was that they needed to make sure in the event of a flood, in the design all considerations were taken to ensure that there were not any downstream issues that could affect other residents. He thought of Council, which was their primary concern. Meanwhile, the resident took on the risk of anything that may happen to his property and that was his business and not Council's. Council's business was to ensure that other residents would not be impacted negatively by this project and that everything laid out in this design was to ensure that happens. He suggested, regarding the process, they were as clear as possible upfront with what those requirements were. He acknowledged Mr. Lyons would be investing a significant amount of money in this project and they wanted to avoid getting significantly into that project and having it be prevented due to a regulation. He wanted to make sure they planned well upfront so that when Mr. Lyons did start spending that money, the City would not shut him down after he had made considerable investments. He believed that is what the plan was asking for, and in his opinion, this was a good plan, and he was in support of it.

Mr. Suchanec would not support this as he looked at special use permits and the criteria for saying yes, and he did not believe it covered floodplains. While it addressed primary residents, it did not address floodplains. He suggested that this was maybe a call to look at the City's plan to have something in there specifically for floodplains. He always believed that floodplains were sacred, and he had a few notes to share with Council. It was called floodplain because it was from flooding; it was a natural habitat for creatures, and it could be destroyed or altered. One swimming pool could become a precedent for additional development in floodplains and he thought that was a mistake. He noted that area was a natural plumbing system for the land, and he did not think it should be destroyed. The current floodplain limits did not take into consideration the fact that they were going to change because of climate change and rising sea levels. Mr. Suchanec explained that where Mr. Lyons was putting the pool may not have seemed like it was central to the floodplain because it was on the perimeter, but that could change over time, and it could be sensitive. He hoped others would consider floodplains as sacred as he did. He could not support development in a floodplain.

Ms. Ford asked if the neighbors had been notified. Mr. Fortner stated that yes, as part of the special use permit process to notify people within 500 ft. of the site. Ms. Creecy asked if they were in concurrence with what was being done. Mr. Fortner explained they were given a mailing and could express their comments; no public comment was received from adjoining property owners within 500 ft.

Mr. Lawhorn commented that West Branch was a very vocal and organized community system. If there were any complaints, they would have been received. Mr. Lyons mentioned he had spoken to his downstream neighbors, and they were in favor of this or had no issues. He appreciated the comments about floodplains being sacred and explained that this would be a bio pool with no chemicals involved as all water would be naturally filtered.

Ms. Creecy asked how long this project would take. Mr. Fortner responded that this would be dependent on the engineer and working with Public Works and Code Enforcement, so the process could vary. It was a complicated project, and once the final plans and engineering were set and it was approved, it could possibly take a couple of years before it was constructed.

Dr. Bancroft remarked this was an interesting decision as this was not a development or house being built, it was a puddle of water that would at most get washed away within 100 years. Therefore, the private owner was taking this risk. He felt inclined to say to secure the decking down properly if it would be in the floodplain, go through the process appropriately, and then it could be evaluated later. To him it did seem the project was being approached in good faith.

Mr. Markham commented on how the advice from Public Works, Planning, and DNREC seemed to spell out the restrictions well of how the pool was made. He was concerned about where the chemicals would be stored, but if it were not a chemical pool, that issue would not be present. DNREC had also said very clearly that it had to be able to sustain a flood. Mr. Fortner clarified that all equipment will be raised above the 18 in. baseline elevation. Mr. Markham asked if the pool were built properly, it could be expected that the worst that could happen would be that there would be debris in the pool. He stated that while he was not an engineer, he was looking at all the requirements being placed.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY MR. LAWHORN, SECONDED BY MS. CREECY: THAT CITY COUNCIL APPROVE THE SPECIAL USE PERMIT FOR THE CONSTRUCTION INGROUND POOL AT 117 DELREM DRIVE WITH CONDITIONS AS OUTLINED IN THE APRIL 17, 2023 STAFF MEMO.

MOTION PASSED. VOTE: 4 to 2.

MR. LAWHORN VOTED YES FOR THE MOTION BECAUSE THE PROPOSED USE DID NOT AFFECT ADVERSELY THE HEALTH OR SAFETY OF PERSON OR PERSONS RESIDING OR WORKING WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; WOULD NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; AND WOULD NOT BE IN CONFLICT WITH THE PURPOSES OF THE COMPREHENSIVE DEVELOPMENT PLAN OF THE CITY. HE MADE THIS FINDING DUE TO THE REASONS OUTLINED IN THE APRIL 17, 2023 PLANNING AND DEVELOPMENT REPORT.

MR. SUCHANEC VOTED NO FOR THE MOTION BECAUSE OF THE REASONS HE HAD ALREADY STATED IN THE PUBLIC RECORD.

MS. FORD VOTED NO FOR THE MOTION BECAUSE THE APPLICATION WILL ADVERSELY AFFECT THE HEALTH OR SAFETY OF PERSONS RESIDING OR WORKING WITHIN THE CITY NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE.

MS. CREECY VOTED YES FOR THE MOTION IN CONCURRENCE WITH MR. LAWHORN AND ALSO DUE TO THE FACT IT WOULD BE BUILT ABOVE THE FLOODPLAIN.

DR. BANCROFT VOTED YES FOR THE MOTION BECAUSE OF THE REASONS STATED BY MR. LAWHORN.

MR. MARKHAM VOTED YES FOR THE MOTION BECAUSE OF THE REASONS STATED BY MR. LAWHORN.

Aye – Lawhorn, Creecy, Bancroft, Markham.

Nay – Suchanec, Ford.

Absent – McDermott.

20. 10-B. REQUEST OF DELACOM INC. AND BEN L. WONG FOR A SPECIAL USE PERMIT TO OPERATE OFFICES FOR PROFESSIONAL SERVICES AND ADMINISTRATIVE ACTIVITIES (AUTOMOBILE WHOLESALE) ON THE PROPERTY LOCATED AT 325 MARKUS COURT, SUITE F122

2:00:17

Ms. Schiano read the ordinance into the record.

MOTION BY MR. LAWHORN, SECONDED BY DR. BANCROFT: THAT CITY COUNCIL INTRODUCE THE SPECIAL USE PERMIT.

Mr. Fortner explained that this special use permit application was in the MI zoning district. This was an industrial district, so offices for professional services and administrative activities were considered conditional use, requiring a special use permit. The use of the property would be as a wholesale car dealership. Wholesale car sales were considered exceptionally low impact activity; it was not direct to customers and was with phone and computer work as well as attending auctions and transferring cars from auction sites to dealerships. It never had possession of cars, customers did not come to the site to buy or look at cars, cars were not repaired there, and there was only a small office with mostly virtual business that did not happen on-site. This was considered low impact, oftentimes done by businessmen in their own homes as a low impact home-based business. Mr. Fortner motioned to the criteria for the special use permit as well as Departmental Comments. The recommendation was that because the proposed use does not conflict with the land use guidelines in the Comprehensive Development Plan V 2.0, because the proposed use is compatible with the Zoning Code Special Use Permit criteria, and because the relevant City departments have no objection to the proposal, the Planning and Development Department recommends that City Council approve the Special Use Permit for professional services and administrative activities to operate as a motor vehicle wholesale dealer at 325 Markus Court, with the conditions under Departmental Comments.

The Mayor opened the table to Council comment.

Ms. Creecy asked if Mr. Wong owned real estate as well. Mr. Fortner did not know, mentioning that Wong was a common name and that his main business was car wholesale.

Dr. Bancroft pointed out that the letter states that he needed to get an office in Sandy Brae. He wondered why he would go through this process if the business could easily be conducted from his own home. Mr. Fortner responded this was possibly as a home-based business could not have employees, and many simply liked to do business in an office.

Mr. Coleman stated that he checked the parcel map and there were no other properties owned by Mr. Wong.

Mr. Markham noted that it sounded like Mr. Wong had been in business for a while and was told he needed a special use permit for that site as it was an industrial site.

Dr. Bancroft still wondered as to why, considering he would not have cars at his location, Mr. Wong wanted to use this office space in an industrial zone. He asked what the recourse would be if cars were to show up at this location.

Mr. Fortner explained that Mr. Wong's type of work did not require a fancy office on Main Street or such due to the fact he did not deal with customers directly, he dealt with dealerships. He mentioned that Mr. Wong wanted to work out of an office because he did not want to work out of his home and possibly had employees for his business. Car storage was permitted in this district if he needed it, but he did not have enough space and it was normally not needed as more wholesale dealers transferred the cars.

The Mayor opened the floor to public comment.

There was no further public comment, and the Mayor returned the discussion to the table.

MOTION BY DR. BANCROFT, SECONDED BY MR. LAWHORN: THAT CITY COUNCIL APPROVE THE SPECIAL USE PERMIT FOR PROFESSIONAL SERVICES AND ADMINISTRATIVE ACTIVITIES AT 325 MARKUS COURT AS OUTLINED IN THE APRIL 17, 2023 STAFF MEMO.

MOTION PASSED. VOTE: 6 to 0.

DR. BANCROFT VOTED YES FOR THE MOTION BECAUSE THE PROPOSED USE DID NOT AFFECT ADVERSELY THE HEALTH OR SAFETY OF PERSON OR PERSONS RESIDING OR WORKING WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; WOULD NOT BE DETRIMENTAL TO THE PUBLIC WELFARE OR INJURIOUS TO PROPERTY OR IMPROVEMENTS WITHIN THE CITY OF NEWARK BOUNDARIES OR WITHIN ONE MILE OF THE CITY OF NEWARK BOUNDARIES AND WITHIN THE STATE OF DELAWARE; AND WOULD NOT BE IN CONFLICT WITH THE PURPOSES OF THE COMPREHENSIVE DEVELOPMENT PLAN OF THE CITY. HE MADE THIS FINDING DUE TO THE REASONS OUTLINED IN THE PLANNING AND DEVELOPMENT DEPARTMENT'S REPORT DATED APRIL 17, 2023.

MS. CREECY VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY DR. BANCROFT.

MR. LAWHORN VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY DR. BANCROFT.

MR. SUCHANEC VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY DR. BANCROFT.

MS. FORD VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY DR. BANCROFT.

MR. MARKHAM VOTED YES FOR THE MOTION DUE TO THE REASONS STATED BY DR. BANCROFT.

Aye – Bancroft, Creecy, Lawhorn, Suchanec, Ford, Markham.

Nay – 0.

Absent – McDermott.

21. Meeting adjourned at 9:09 p.m.

/jh

Tara Schiano
Director of Legislative Services
City Secretary